

New Hampshire's Right-to-Know Law (RSA chapter 91-A) and Instream Flow Committees

By Wayne Ives, NHDES, April 12, 2004

This is the Watershed Management Bureau's understanding of the Right to Know Law. The NH Office of the Attorney General is the committee's source of legal advice. For reference, see http://doj.nh.gov/publications/right_to_know.html#whichgovernmental

TRC and WMPAAC meetings are required by law and are considered public meetings. Public notification of meetings is required to be posted in two appropriate locations 24 hours in advance. A meeting under New Hampshire's right-to-know law (RSA chapter 91-A) is defined as having a quorum (50%+1) and a purpose (agenda). Even without a quorum, a meeting is still public, only no decisions may be made officially; and even without an agenda, a decision to meet to discuss instream flow issues can be considered as purposeful. Therefore, in most cases discussions about instream flow issues between members should be considered public. The proceedings and results in a meeting are public information and as are proceedings and results of any subcommittee meetings.

What might not be considered public information?

There are gray areas in determining what is public and what is not.

Discussions held by happenstance in social settings are not considered public, e.g., two members who discuss instream flow while attending a party.

The committee may go into executive session to handle personal details like arranging meetings to deal with health issues or discussing reasons for a resignation, etc. These are not public.

Sending an email is not happenstance and therefore may be considered public information. However, you are not required to retain committee documentation or emails. The committee may decide to retain only records containing the decisions reached and not its notes made during the process. But if requested for information, then it is not permitted to destroy or cull out existing documents or emails, unless some other legal privilege applies (e.g. attorney/client).

Responding to requests for information

Anyone may request information from a public process under RSA 91-A. The reason for requesting information is irrelevant and information may not be denied based on the reason.

The requested public entity must respond to the request and provide information. The committee must respond to a request within 5 days. The response can direct the person to a repository like the website or file review station where all the requested information must be available. The response can be that the request will require some time for the requested information to be compiled. The requesting person can be billed for staff time and for reasonable copying costs.

It is a good idea to require that Right-to-Know requests be made in writing.